

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1784 OF 2006

Dr.Himanshu Hasmukhlal Desai ..Petitioner

Vs.

The State of Maharashtra & Ors. ..Respondents

Mr.Omprakash Pandey i/b M/s.Pandey and Co. for the
petitioner

Mr.D.S.Mhaispurkar, A.P.P. for the state

**CORAM : J.N.PATEL &
SMT.ROSHAN S.DALVI, JJ.**

DATED : 4TH OCTOBER, 2006

P.C.:

1. An affidavit filed by the Inspector of Police, Shri Mahipati G.Pandharmise attached to Dahisar Police Station is taken on record. Copy of the affidavit is furnished to the other side.

2. Heard.

3. The petitioner has approached this court claiming that he is a M.D. (Gynaecologist & Obstetrician) having hospital as Dr.Desai's Sreeji

Hospital at A-7, Ratan Nagar, Dahisar (East), Mumbai 400 068. It is the case of the petitioner that on 7.1.06, the police officers raided the premises and conducted search and registered false case against the petitioner and his wife vide Crime No.68 of 2006 and arrested the petitioner, his wife and friends.

4. Specific allegations are made that the officers of respondent police station demanded a sum of Rs.5 lacs for settling the dispute and on refusing to fulfil their demand, threatened to implicate him under P.I.T.A. and, therefore, the petitioner seeks directions/ orders from this court to quash the F.I.R. No.68 of 2006 registered by Dahisar Police Station and Chapter proceedings and direct the police officers to take cognisance of the complaint made by the petitioner.

5. On going through the affidavit in reply, we find that the police has raided the nursing home of the petitioner on getting reliable information that the petitioner under the garb of running nursing home is factually running a brothel and that is why

the premises were raided and were able to nab 8 to 10 girls in the flat of the petitioner. One of the girls by name Usha is supplying the girls for prostitution and therefore, case came to be registered against the petitioner and persons whose complicity was found in running the brothel.

6. It is also stated that the police has filed charge sheet against the petitioner, his wife and all those who were found running the brothel in the court of Learned Metropolitan Magistrate, 26th court, Borivali, Mumbai vide C.C.No.831/PS/2006 and now the case is pending for trial before the 26th court at Borivali.

7. In view of this fact-situation, we find that there is no merits in the petition. The petitioner can very well contest the case in the court.

8. On going through the affidavit in reply filed by the Inspector of Police what we find is that inspite of identifying the lady by name Usha the police authorities have done precious little to

arrest her though she was trafficking the girls for prostitution. On taking instruction, the learned A.P.P. states that search for the absconding accused is still going on and police expects to nab her and cause her arrest within a period of 4 weeks. We accept this as a statement made by the Inspector of Police, Dahisar Police Station. We may also observe that if the police really means it, it is not impossible for them to arrest the main culprit. We also direct the P.I. Dahisar Police Station to inform the D.C.P. of social service branch about the case and the orders passed by this court who would oversee their remaining part of the investigation such as arrest of the wanted accused, Usha.

9. Before we part with the petition, we may also record that the petitioner in order to avoid his prosecution has made wild allegations against the police officers who were concerned with raiding the premises of the petitioner without any substance. This is nothing but a clear abuse of the process of court. Therefore, petition is dismissed with compensatory cost of Rs.10000/- to

be deposited with the Collector (Suburban District) Mumbai within a period of 2 weeks from the date of this order. On the petitioners failure to deposit cost as directed by this court, the Collector (Suburban District), Mumbai would recover it as fine by resorting to the provisions of Maharashtra Land Revenue Code.

(SHRI J.N. PATEL, J)

(SMT.ROSHAN DALVI, J)